

**TRIBAL COUNCIL OF THE NORTHERN CHEYENNE TRIBE
NORTHERN CHEYENNE INDIAN RESERVATION
LAME DEER, MONTANA**

RESOLUTION NO. DOI-069 (06)

A RESOLUTION OF THE NORTHERN CHEYENNE TRIBAL COUNCIL OPPOSING THE DEPARTMENT OF ENERGY'S "RIGHT-OF-WAY STUDY" ON TRIBAL LANDS AS REQUIRED BY SECTION 1813 OF THE ENERGY POLICY ACT OF 2005 (P.L. 109-58) AND MAINTAINING THE RIGHTS OF THE TRIBE WITH STRONG OPPOSITION TO THE CHANGES IN FEDERAL LAW AND POLICY THAT WOULD IMPOSE LIMITATIONS ON TRIBAL SOVEREIGNTY WITH THE CODE OF FEDERAL REGULATIONS (CFR) SECTION ON RIGHT-OF-WAYS.

WHEREAS; the Northern Cheyenne Tribal Council is the governing body of the Northern Cheyenne Indian Reservation by the authority of pursuant to the Amended Constitution and Bylaws of the Northern Cheyenne Tribe as approved by the Secretary of the Interior on May 31st, 1996; and,

WHEREAS; the Northern Cheyenne Tribal Council under Article IV, Section 1, part (a), is empowered to negotiate with the Federal, State, and local governments; and,

WHEREAS; the Northern Cheyenne Tribe strives to ensure the protection and safeguarding of all assets and resources held in "trust" by the United States Federal Government; and,

WHEREAS; Section 1813 of the Energy Policy Act of 2005 requires the Department of Energy (DOE) and the Department of Interior (DOI) to prepare a study ("Right-of-Way Study") on the compensation practices and policy implications associated with the issuance of tribal consent for energy-related right-of-way crossing tribal land; and,

WHEREAS; the "Right-of-Way" Study is a matter of great importance to the Northern Cheyenne Tribe and to all other Tribal Nations and will have significant and serious implications regarding future legislation and tribal sovereignty; and,

WHEREAS; under longstanding federal laws and regulations, the consent of the governing body of a Federally Recognized Tribe must be obtained as a condition for the granting or renewal of any right-of-way across tribal lands; and,

WHEREAS; the requirement of tribal consent of right-of-way is a critical aspect of tribal sovereignty that allows the Northern Cheyenne Tribal Government to negotiate acceptable terms, including those related to duration and compensation, for the use and access of lands owned by the Tribe and held in "trust" by the United States Federal Government.

NOW, THEREFORE BE IT RESOLVED that the Northern Cheyenne Tribal Council hereby opposes the Department of Energy's "Right-of-Way Study" required by Section 1813 of the Energy Policy Act of 2005.

BE IT FURTHER RESOLVED that the Northern Cheyenne Tribal Council hereby approves the following principles as an official policy statement of the Tribe and further desires these principles to be incorporated into the "Right-of-Way Study" and maintained as a matter of official federal law and policy:

- I. **Tribal Sovereignty and Consent.** The power of the tribes to prevent third parties from using tribal lands without tribal consent is a critical element of tribal sovereignty that has been established in Federal law and policy for over 200 years. The Tribal Consent requirement to the use of tribal lands should be honored and preserved.
- II. **Conditions to Consent.** The tribal consent requirement includes the power of the tribes to place conditions on the use and access of tribal lands, including conditions related to tribal jurisdiction, preservation of environment and cultural resources, duration of use, and compensations.
- III. **No Negative Effects.** Adherence to the tribal consent requirement has resulted in greater energy production in Indian Country and lower energy cost to consumers. The tribal consent requirement for right-of-way has not had a noticeable negative effect on the availability or cost of energy to consumers.
- IV. **Preservation of Tribal Jurisdiction.** No right-of-way agreement or other business arrangement that permits third-party use of tribal lands should reduce the inherent sovereign power of a tribe over its lands or the activities conducted on its lands in the absence of the specific consent of the tribe.
- V. **Restricted Duration of Right-of-Way.** Federal law and policy should not be changed to require perpetual right-of-way or automatic renewals of right-of-way because such changes would deprive tribes of management and control of their lands.
- VI. **Negotiated Compensation.** Tribes should continue to have the right to negotiate compensation for the use of tribal land that gives tribes a fair share of the economic benefits produced by the use of their lands. Such revenues sustain tribal governments and tribal cultures.
- VII. **National Security.** Indian Nations are an integral component of energy security of the United State of American, not a threat to that security. History demonstrates that tribes have permitted critical energy facilities to be used pending compensation negotiations even in cases where tribal right-of-way has expired.
- VIII. **Industry Partnerships – Best Practices.** Federal law and policy should provide positive incentives to tribes and industry to foster partnerships and the mutual

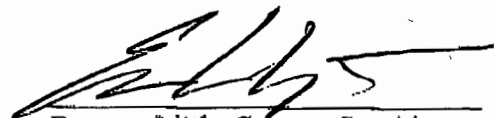
alignment of economic interest related to energy development, transmission and distribution.

- IX. **Appropriate Deference.** As reflected in the Indian Tribal Energy Development and Self-Determination Act of 2005, deference to tribal decision-making should remain a fundamental component of the Federal Indian Energy Policy.
- X. **Allottee Experience.** The creation of a Federal administrative valuation process for fixing tribal right-of-way compensation would be an affront to tribal sovereignty and, as shown by the disastrous Federal management of Indian allottee resources and assets, would be a mistake.

BE IT FURTHER RESOLVED that the Northern Cheyenne Tribal Council hereby declares strong opposition to any changes in the federal law and policy or sections of the proposed Code of Federal Regulations (CFR) on "right-of-ways" that would limit the Tribe's sovereignty.

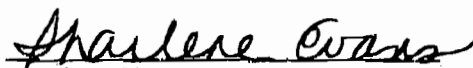
BE IT FINALLY RESOLVED that the Northern Cheyenne Tribal Council hereby directs that a copy of this resolution be forwarded to the Department of Energy and the Department of the Interior for inclusion in the record related to the "Right-of-Way Study."

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Tribal Council by 9 votes for passage and adoption and 0 votes against passage and adoption and no abstentions this 1st day of May 2006.



Eugene Little Coyote, President
Northern Cheyenne Tribe

ATTEST:



Sharlene Evans, Secretary
Northern Cheyenne Tribe